SBCivil Writ Petition No.5005/2004

Kailash Kumar
Vs.
Labour Court, Jodhpur & Ors.

Date of Order :: 11th October, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Rakesh Arora, for the petitioner.
Mr. R.K.Mehta, for the respondents.

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By this petition for writ a challenge is given to the correctness, validity and propriety of the award dated 2.4.2004 passed by Labour Court, Jodhpur in Industrial Dispute Case No.281/01.

The appropriate government under its notification dated 22.5.2001 referred an industrial dispute for its adjudication to Labour Court in the terms as to whether termination of services of the workman Shri Kailash Kumar son of Shri Dhannaram by Chairman/Executive Officer, Municipal Board, Sheoganj w.e.f. 31.3.2000 is improper and illegal, if not then for what relief the workman is entitled? The Labour Court by award impugned held that the appointment of the workman was made under Jawahar Rozgar Yojna and, therefore, his termination from service on expiry of project concerned does not amount retrenchment. The workman, therefore, is not entitled for any relief.

While giving challenge to the award impugned it is contended by counsel for the petitioner that the Labour Court while reaching at the conclusion that the appointment was given to the workman under Jawahar Rozgar Yojna has not taken into consideration the documents placed on record wherefrom it is established that at the time of termination from service the workman was not working under Jawahar Rozgar Yojna. It is pointed out by counsel for the petitioner that Jawahar Rozgar Yojna stood abolished by the government on 30.11.1997 but the petitioner was allowed to continue in service in various wings of the Municipal Board, Sheoganj. The petitioner by order dated 4.6.1998 (Anx.5) was ordered to look after the work of ledger posting pertaining to Provident Fund Accounts and to compute interest. By another order dated 1.7.1998 the services of the petitioner were utilised in flood control wing. From perusal of office order dated 26.11.1998 (Anx.7) it reveals that the petitioner was entrusted the work under Pulse Polio Scheme. By an office order dated 4.3.1999 the petitioner was instructed to assist Shri Mahendra Singh, Junior Engineer in Development Branch of the Municipal Board. By an office order dated 26.1.2000 certain other official duties were entrusted to the petitioner during strike period. All these documents were available before the Labour Court. From the documents referred above it is apparent that after abolition of Jawahar Rozgar Yojna w.e.f. 31.11.1997

the Municipal Board, Sheoganj utilised services of the petitioner in its various wings. The Labour Court while reaching at the conclusion failed to look into the documents referred above, as such the finding given by the Labour Court to the effect that the petitioner was in employment of the Municipal Board, Sheoganj under Jawahar Rozgar Yojna is erroneous.

Accordingly, the award impugned dated 2.4.2004 is declared illegal and the same is quashed. The industrial dispute is remanded to Labour Court, Jodhpur for its adjudication afresh by treating the respondent workman as in employment of the Municipal Board, Sheoganj. It is expected from the Labour Court to adjudicate and decide the industrial dispute within a period of six months from the date a certified copy of this order is placed before it by the petitioner. Counsel for the petitioner assures that a certified copy shall be placed before the Labour Court alongwith an application to fix a date for further proceedings in industrial dispute within a period of three weeks from today.

The petition for writ is disposed of accordingly with no order to cost.

(GOVIND MATHUR),J.

kkm/ps.